

TEXT OF PROPOSED REGULATIONS

In the following text:

single underline indicates added or amended text

single strikeout indicates deleted or moved text

Title 15. Crime Prevention and Corrections

Division 8. California Prison Industry Authority

Chapter 1. Rules and Regulations of California Prison Industry Authority

Article 3. CALPIA Inmate Work/Training and Education

Section 8004 is amended to read:

§ 8004. PARTICIPATION

(a) Inmates committed to the custody of the California Department of Corrections and Rehabilitation may apply to participate in CALPIA work and training programs. Inmates who have met the requirements in Section 8004.1 may be assigned to an appropriate work position allowing the inmate to earn funds and acquire or improve effective work habits and occupational skills. CALPIA does not discriminate on the basis of disability in employment or in the admission and access to its program or activities. Inmates with physical or developmental disabilities, or inmates who participate in CDCR's Mental Health Services Delivery System, and who otherwise meet the hiring requirements, are not excluded from CALPIA job or training positions. CALPIA will afford inmates reasonable accommodation to access programs as required by the American with Disabilities Act, the California Fair Employment and Housing Act, and applicable related non-discrimination laws.

(b) Inmates shall not be eligible for a CALPIA assignment under the following circumstances:

(1) Inmates serving life sentences without parole (LWOP); unless the inmate meets the exception found in 8004(d)(4).

(2) Inmates convicted of arson, elements of arson, or possession or use of explosive material, unless the arson conviction is more than 15 years prior to the date of application and all other eligibility requirements are met, then an exemption may be considered.

(3) Inmates found in violation of Section 3016; unless the inmate subsequently meets the following minimum requirements:

(A) six (6) months of disciplinary/drug/alcohol-free conduct; and

(B) ninety (90) days of satisfactory work as written on an institutional Work Supervisor's Report, CDC 101 (1/92), which is incorporated by reference, from inmate's work supervisor; and

(C) Successfully graduates from a substance abuse program.

(c) Inmates who are otherwise eligible for a CALPIA assignment shall be restricted as follows:

(1) All inmates assigned to a work/training position within CALPIA, pursuant to Penal Code (PC) Section 5071, shall not have access to personal information of private individuals.

(2) Inmates convicted of a PC Section 290 offense shall not be assigned to the CALPIA optical program.

(3) Inmates convicted of forgery, fraud, counterfeiting, or embezzlement shall not be assigned to the CALPIA Specialty Print Plants.

(4) Inmates who have any of the following history shall not be placed in assignments that provide access to a computer:

(A) Computer fraud or abuse, as defined in PC Section 502; or

(B) Telephone fraud or abuse, as defined in PC Section 502.7(b); or

(C) Any documented institutional disciplinary action, as described in sections 3000 and 3312 of Title 15, involving the use of a computer to conduct unauthorized activity not related to the intended work tasks of CDCR or CALPIA.

(d) The following factors shall be taken into consideration on a case-by-case basis when determining the assignment or re-assignment of an inmate to a CALPIA program:

(1) Inmates with prior history of disciplinary actions, or disciplinary measures that resulted in removal from a CALPIA program may be considered for a re-assignment based upon the inmate's conduct of a minimum of six (6) months of disciplinary-free conduct.

(2) Inmates with Close Custody designation may be considered for a CALPIA assignment until 2200 hours when the work program is in an assigned housing unit located within the facility security perimeter, that conforms with the requirements identified in California Code of Regulations (CCR), Title 15, Division 3, Section 3377.1(a)(2)(B) through (a)(2)(D) or (a)(3)(B) through (a)(3)(D) on a case-by-case basis, with the approval of the Warden at the institution/facility.

(3) Institutions/facilities with a transient population resulting in inmate worker unavailability may utilize inmates with Life sentences, but shall not exceed twenty-five percent of the workforce per institution/facility.

(4) Institutions/facilities with a population resulting in inmate worker unavailability may utilize inmates with LWOP sentences with the approval of the Warden at the institution/facility on a case-by-case basis.

(e) Inmates placed on Immigration and Customs Enforcement (ICE) Hold status by CDCR shall not be assigned to a CALPIA job without an approved exemption in writing from the General Manager.

(1) ICE Hold inmate workers assigned to CALPIA will not be eligible to receive external accredited certificates unless ICE Hold status is removed in the following two steps:

(A) Through administrative proceedings; and

(B) Prior to the end of accredited certificate program.

(f) The General Manager, or a General Manager's designee, may terminate an inmate worker from assignment with CALPIA at any time with or without cause.

AUTHORITY: Sections 2801 and 2808, Penal Code.

REFERENCE: Sections 2702, 2801, 2805 and 5071, Penal Code; *Armstrong v. Davis*, 318 F.3d 965, 968-9 (9th Cir. 2003); *Armstrong v. Davis*, 275 F.3d 849, 879 (9th Cir. 2001), cert. denied 2002 U.S. LEXIS 5480 (U.S. Oct. 2002); *Armstrong v. Wilson*, 124 F.3d 1019, 1020-21 (9th Cir. 1997); *Pa. Dep't of Corr. v. Yeskey*, 524 U.S. 206 (1998); and *Hecker v. CDCR*, Docket 2:05-CV-02441-LKK-JFM (E.D. Cal.).

HISTORY: 1. Amendment of article heading and new section filed 2-12-2013; operative 4-1-2013 (Register 2013, No. 7).
2. Amendment filed 8-6-2015; operative 10-1-2015 (Register 2015, No. 32).
3. Amendment of subsection (b)(3) filed 3-14-2017; operative 7-1-2017 (Register 2017, No. 11).
4. Amendment of subsections (a), (b)(3)(C), (c)(4)(A)-(C), (d)(2) and (e)(1)(A)-(B) and amendment of Note filed 12-21-2017; operative 4-1-2018 (Register 2017, No. 51).